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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,616	02/12/2001	Iwao Hatanaka	[CHA9-99-015]	9505

7590 10/25/2006

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ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 10/25/2006

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/781,616
Filing Date: February 12, 2001
Appellant(s): HATANAKA, IWAO

Michael F. Hoffman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 08/17/2006 appealing from the Office action mailed on 01/10/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,477,569	Sayan et al.	11/2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> or
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-11 are rejected under 35 U.S.C. § 102(e) as being anticipated by Sayan et al. (Sayan) patent no. 6,477,569.

3. As to claim 1, Sayan teaches the invention as claimed, including a system for managing the use of resources in a system where a remote client uses resources at a server for a limited duration, the system comprising:

a stored log file listing of at least one resource being used at the server and the client using that resource (col. 5 lines 46-65; col. 7 lines 35-61);

a system which identifies whether the remote client is no longer using resources at the server, including determining a combination of whether the resources have been held by the remote client for a period longer than a first preset threshold and whether the resources have been held by the remote client without use of the resources for a period longer than a second preset threshold (Sayan, col. 8 line 64 – col. 9 line 5, col. 12 line 35 – col. 14 line 20; Sayan teaches determining whether CPU resource have been over-taken by a client for a period longer than CPU Limit parameter which is being

set to at least twice the maximum time used for the longest of all transactions serviceable by a Pool Agent (Sayan, col. 8 line 64 – col. 9 line 5). In addition, Sayan teaches Pool Agent receives and processes request from client application. If the Pool Agent remains idle for more than a predetermined period of time, the Pool Agent times out and the process terminates (Sayan, col. 12 line 35 – col. 14 line 20)); and

in response to the system identifying that the client is no longer using resources at the server, a mechanism which removes the resources which had been used by the client when the remote client was connected to the server, whereby the resources being used by the client are capable of being used by other clients after the client has disconnected from the server (Sayan, col. 12 line 35 – col. 14 line 20) .

4. As to claim 2, Sayan teaches the system which identifies that a remote client is no longer using a resource at the server includes a mechanism for determining that the client is no longer connected to the server through a data transmission network (Sayan, col. 12 line 35 – col. 14 line 20).

5. As to claim 3, Sayan teaches the system which identifies that a remote client is no longer using a resource at the server includes a system for determining that the program which uses the resource has terminated (Sayan, col. 12 line 35 – col. 14 line 20).

6. As to claim 4, Sayan teaches the server maintains a listing of each of the clients using a resource associated with the server and the resources which are used by the respective client (col. 5 lines 46-65; col. 7 lines 35-61).

7. Claims 5-11 have similar limitations as claims 1-4; therefore, they are rejected under the same rationale.

(10) Response to Arguments

(I) Applicant argues that prior art does not teach determining a combination of whether the resources have been held by the remote client for a period longer than a first preset threshold and whether the resources have been held by the remote client without use of the resources for a period longer than a second preset threshold.

As to point (I), Sayan teaches determining whether CPU resource have been over-taken by a client for a period longer than CPU Limit parameter (first preset threshold) which is being set to at least twice the maximum time used for the longest of all transactions serviceable by a Pool Agent (Sayan, col. 8 line 64 – col. 9 line 5).

In addition, Sayan teaches Pool Agent receives and processes request from client application. If the Pool Agent remains idle for more than a predetermined period of time (second preset threshold), the Pool Agent times out and the process terminates (Sayan, col. 12 line 35 – col. 14 line 20. Applicant agreed Sayan teaches the second preset threshold in page 5 of the Appeal Brief).

(II) Applicant argues that a client application may request and a pool agent may perform more than one transaction. For example, if each of all the transactions requested by a client application is processed by a pool agent within the CPU limit, a

a communication between the pool agent and the client application can exist for a period longer than the CPU limit, provided that an idle time of the pool agent does not exceed the maximum.

As to point (II), Applicant only discussed one aspect of Sayan's teachings. Applicant should looks at all aspects of Sayan's teachings. Some other aspects of Sayan's teachings read on to applicant's claimed invention are being described below:

First, a client requests and a pool agent performs more than one transactions requested by the client. If the first transaction requested by the client is processed by the pool agent is over the CPU limit, a communication between the pool agent and the client can not exist for a period longer than the CPU limit.

Second, a single request from the client and the pool agent performs only one transaction to process the request. In this case, the communication between the pool agent and the client can not exist for a period longer than the CPU limit if the transaction is required to be processed longer than the CPU limit (Sayan, col. 8 line 64 – col. 9 line 5).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

LE HIEN LUU
PRIMARY EXAMINER

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